

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CYRIS GILBERT,

Plaintiff

Case No. 3:20-cv-00470-MMD-CLB

ORDER

v.

STATE OF NEVADA, ex rel.
NEVADA DEPARTMENT OF
CORRECTIONS, et al.,

Defendants

I. DISCUSSION

On August 17, 2020, Plaintiff, an inmate in the custody of the Nevada Department of Corrections (“NDOC”), submitted an application to proceed *in forma pauperis* and an emergency motion for TRO/injunction. (ECF Nos. 1, 1-1). Plaintiff has not submitted a complaint or a fully complete application to proceed *in forma pauperis*.

Under Federal Rule of Civil Procedure 3, “[a] civil action is commenced by filing a complaint with the court.” Fed. R. Civ. P. 3. As such, the Court grants Plaintiff until **October 19, 2020** to submit a complaint to this Court.

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full \$400 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

(1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this Court’s approved form (i.e. pages 1 through 3 with the inmate’s two signatures on page 3),

(2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court’s approved form), and

(3) a copy of the **inmate’s prison or jail trust fund account statement for the previous six-month period**.

1 Plaintiff has not submitted an application on this Court's approved form together
2 with a financial certificate and an inmate account statement for the previous six-month
3 period. Accordingly, the Court denies Plaintiff's application to proceed *in forma pauperis*
4 (ECF No. 1) without prejudice because the application is incomplete. The Court will grant
5 Plaintiff a **one-time extension** to file a fully complete application to proceed *in forma*
6 *pauperis* containing all three of the required documents. Plaintiff will file a fully complete
7 application to proceed *in forma pauperis* on or before **October 19, 2020**. Absent unusual
8 circumstances, the Court will not grant any further extensions of time. If Plaintiff is unable
9 to file a fully complete application to proceed *in forma pauperis* with all three required
10 documents on or before **October 19, 2020**, the Court will dismiss this case without
11 prejudice for Plaintiff to file a new case with the Court when Plaintiff is able to acquire all
12 three of the documents needed to file a fully complete application to proceed *in forma*
13 *pauperis* or pays the full \$400 filing fee.

14 A dismissal without prejudice means Plaintiff does not give up the right to refile the
15 case with the Court, under a new case number, when Plaintiff has all three documents
16 needed to submit with the application to proceed *in forma pauperis*. Alternatively, Plaintiff
17 may choose not to file an application to proceed *in forma pauperis* and instead pay the
18 full filing fee of \$400 on or before **October 19, 2020** to proceed with this case.

19 Plaintiff is advised that the Court will not consider his emergency motion for
20 TRO/injunction (ECF No. 1-1) until Plaintiff files a complaint and a fully complete
21 application to proceed *in forma pauperis* with all three required documents or pays the
22 full \$400 filing fee,.

23 **II. CONCLUSION**

24 For the foregoing reasons, IT IS ORDERED that Plaintiff will submit a complaint to
25 this Court on or before **October 19, 2020**.

26 IT IS FURTHER ORDERED that the Clerk of the Court will send to Plaintiff the
27 approved form for filing a 42 U.S.C. § 1983 complaint and instructions for the same. The
28 Clerk of the Court will also send Plaintiff a copy of his emergency motion for

1 TRO/injunction. (ECF No. 1-1).

2 IT IS FURTHER ORDERED that Plaintiff's application to proceed *in forma pauperis*
3 (ECF No. 1) is denied without prejudice to file a new fully complete application to proceed
4 *in forma pauperis* with all three documents.

5 IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the
6 approved form application to proceed *in forma pauperis* by an inmate, as well as the
7 document entitled information and instructions for filing an *in forma pauperis* application.

8 IT IS FURTHER ORDERED that on or before **October 19, 2020**, Plaintiff will either
9 pay the full \$400 filing fee for a civil action (which includes the \$350 filing fee and the \$50
10 administrative fee) or file with the Court:

11 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this
12 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two
13 signatures on page 3),

14 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
15 official (i.e. page 4 of this Court's approved form), and

16 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
17 **previous six-month period.**

18 IT IS FURTHER ORDERED that, if Plaintiff does not file a complaint and a fully
19 complete application to proceed *in forma pauperis* with all three documents or pay the full
20 \$400 filing fee for a civil action on or before **October 19, 2020**, the Court will dismiss this
21 action without prejudice for Plaintiff to refile the case with the Court, under a new case
22 number, when Plaintiff is able to file a complaint and has all three documents needed to
23 file a complete application to proceed *in forma pauperis* or pays the full \$400 filing fee.

24 DATED: August 19, 2020

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26 UNITED STATES MAGISTRATE JUDGE
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